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Our Ref: MJR/19.166

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Growth, Economy and Culture
Civic Offices
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Milton Keynes
MK9 3EJ

SENT VIA EMAIL

Dear Mr. Blandamer,

South Caldecotte Development Framework Supplementary Planning Document (SPD) Consultation

On behalf of our clients Bow Brickhill Parish Council, I am writing to set out their significant objection to the SPD in its current form.

Whilst we are of the view that supplementary planning guidance can play an important role in providing certainty and guidance for both developers and communities, we have a range of concerns in respect of the document, its scope, contents and understanding of the site. In addition and perhaps most importantly it should not be used to avoid important policy considerations in Plan:MK or to bypass rigorous technical assessment. In its current form, our clients are deeply concerned over the impact that the proposals will have on their Parish and its residents.

Set out herein are our clients objections to the documents that are broadly based on:

- the legal requirement and scope for Supplementary Planning Guidance;
- conflicts within national guidance; and
- conflicts with policy set out within the recently adopted Milton Keynes Local Plan;

The Role of Supplementary Planning Guidance

Our comments are based on the requirements of the Government in relation to the scope and purpose of Supplementary planning documents. Supplementary planning documents (including development briefs) are defined in the NPPF as ***“Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design”***.

NPPG (Paragraph: 008 Reference ID: 61-008-20190315) indicates that “**Supplementary planning documents (SPDs) should build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies into the development plan. They are however a material consideration in decision-making**”.

The guidance is clear that SPD’s must be consistent with the Local Development Plan and not introduce new policy. Furthermore Para 8 (2) of the Town and Country Planning (Local Planning) (England) Regulations 2012 indicates that:

- a supplementary planning document must contain a reasoned justification of the policies contained in it;
- any policies contained in a supplementary planning document must not conflict with the adopted development plan; and
- the policies contained in a local plan must be consistent with the adopted development plan.

This position has been shaped by case law. In *Westminster City Council v Great Portland Estates plc* (1985) and *R (on the application of JA Pye (Oxford) Ltd) v Oxford City Council* (2002), it was made clear that guidelines ought properly to be included in the Development Plan so that interested parties would not be deprived of the right to object. Supplementary Planning Guidance may be used to supplement existing policies in the development plan but not change them or introduce new policies, and SPD should not be used to delegate the criteria for decisions on planning applications to the guidance. This, along with relevant Policy and Guidance, forms the basis for our comments.

Accordingly, it is clearly the case that any documents that are to be adopted as supplementary guidance by a Local Authority must not add new policies to the development plan that would effectively remove the right of an interested party to object and be heard by an independent Inspector. Similarly it is to be read alongside the adopted Plan so cannot remove the requirement for general compliance with the Development Plan or relevant legislation.

We set out our comments based on the main sections of the document as follows:

Section 1. Introduction

The introduction to the SPD sets out an overview of what the document seeks to achieve, however, we are concerned that this is misleading and not reflective of the content of the document.

Para 5.34 of Plan:MK indicates that a “*comprehensive development brief*” is to be prepared. Notwithstanding our clients objections to the Plan and the impacts that it will have on their community, we are of the view that it is important that any SPD is comprehensive particularly given the proximity of B2 and B8 land uses to much more sensitive C3 land uses and the significant impact upon the existing transportation network that is under significant strain already. However, we are concerned that the SPD is not comprehensive rather it raises numerous significant and far reaching concerns over the future of the site and the scale of development that the Council will consider acceptable.

For instance it only deals summarily with key contextual matters (transport, noise, air quality, landscape, heritage and biodiversity) yet these could have significant impacts upon the nature of the eventual proposals and the SPD indicates that no EIA will be needed on the site without an understanding of the nature and scale of final proposals (limited information was provided in the Screening request).

We are of the view that it should be treated as the EIA regulations intended, as a multi stage consent and assessment will be required at each consent stage (Outline and Reserved Matters) in order to ensure that the impacts are dealt with robustly and not bypassed. It is highly unusual and inappropriate for a potential outline application covering over 57ha of industrial development not to be subject to



the rigour of an EIA especially given the likely significant impacts and need for mitigation. Our more detailed considerations on this are set out throughout our representations.

We note at para 1.2.2 that the SPD indicates that it will ensure that the requirements of Plan:MK policy are respected. However, we are concerned that there are inherent conflicts with a number of key policies in Plan:MK and elements of the Development Framework (section 3) fail to make appropriate reference to key policies including SD1, D2, D3 and how they might be implemented. Indeed, the relationship to future proposals is not presently explained in the SPD and there is no indication that these detailed design requirements can be met.

Para 1.3.1 indicates that the SPD will be used to “*demonstrate the site’s deliverability*”. Our considerations of this are set out throughout our response, however, summarily the document doesn’t confirm delivery, rather it provides a development framework without considering how major constraints can be overcome particularly in respect of transport (given the significant likely impacts and level of mitigation that will be required), the unimplementable railway crossing and an understanding of the full extent of the heritage asset.

Given the above, summarily (and for the reasons set out within the remainder of the document), our clients are concerned that far from demonstrating deliverability and providing a comprehensive brief, in fact the Brief only highlights all of the various problems and does not suggest how these can be dealt with through a planning application.

East West Rail

It is noted at para 1.6.5 that there are already significant delays at the Bow Brickhill Rail crossing with the gates closed for 14 to 15 minutes per hour. This excludes freight trains and in any event is expected to double by 2024 when the upgrade works are complete. Given the existing delays and the fact that this will only increase as train numbers intensifies, it seems imperative that any development at the site includes measure to ensure at the very least that the impact doesn’t become any worse due to development, absent this then the proposals would not comply with relevant transport policies within Plan:MK. We consider this in more detail later in this submission.

Railway Bridge

It is our understanding that Network Rail have no intention of implementing the scheme at figure 1.3 nor is there any funding for doing so. Rather Network Rail have prepared two schemes (at appendix 1) that would meet their requirement these are shown below. Clearly these options would require land to be safeguarded within the site area and Network Rail’s technical and operational requirements cannot be achieved on the basis of the figure included within the SPD. These options cannot be achieved given the content of the SPD.

A Freedom of Information request was undertaken by a local resident in respect of the bridge. The information provided by the Council indicates:

***“No feasibility work for a bridge over the railway was carried out or commissioned by the council – the layout included in figure 1.3 being provided by the developer’s consultant as part of their planning and design work supporting the preparation of a potential future planning submission.*”**

Milton Keynes officers considered the layout in figure 1.3 and agreed, that in principle would be possible to construct a bridge in this location with the existing road alignment.

There are therefore no detailed drawings and calculations available for your consideration.”

It is therefore wholly misleading at para 1.6.3 of the SPD to suggest that the bridge is an option and more troubling that the drawing submitted (figure 1.3) contains no topographical information or consideration of the gradients required. We would expect that in order for this to have any credibility



it would need to be accompanied *as a minimum* for it to be included in SPD to be accompanied by technical specifications setting out in detail how it will be achieved including in respect of the impact of the widened road and bridge, whether the gradients can be achieved, whether Network Rail's requirements can be met and result in an acceptable neighbouring scheme. However, the Council also confirm that no such technical information has been supplied to support this drawing.

Our clients have had to commission their own feasibility work to help them understand whether the bridge is feasible. This was undertaken by transport consultants Miles White. Richard White of Miles White has significant experience of transportation schemes including previous roles as head of national engineering consultants. It is noted that any bridge over the railway would need to be around 5m above the line. The Brickhill Street/Station Road mini-roundabout is approximately 80m south of the railway line and so a 1:16 gradient would be required on the realigned road if this junction is to be retained (and provide access to/from Bow Brickhill and beyond). Such a gradient is above the maximum gradient stated in TD 9/93 "Highway Link Design (Design Manual for Roads and Bridges)" and therefore the bridge is **not deliverable** as shown in the Development Brief.

If an acceptable gradient were provided (1:25) then the bridge would meet Brickhill Street much further south of the Station Road mini-roundabout, which begs the question how would Bow Brickhill (and beyond) be accessed. A similar exists to the north of the crossing with the Tilbrook Roundabout where further significant works, land forming and land take would be required in order to facilitate the route. The "over run" is shown below to the north and south, this precludes the option within the development brief completely.



Plan 1: Extent of ramp required to "bridge" the railway line

In light of the above, there is no reason for the inclusion of this drawing. Rather it will only blight properties around it that will be required for land forming to achieve the necessary levels.



Section 2. The Site and its Context

Currently limited information is available to feed into section 2. We note summarily that much greater detail will need to be prepared in terms of:

1. landscape and visual Impact;
2. the operation of the transport network and various constraints;
3. ecology;
4. archaeological assets; and
5. local built form and relationship with neighbouring land uses;

These could all have an impact upon the final development framework with additional land being required for instance for landscape buffering, ensuring appropriate land uses between residential areas and B2/B8 uses, heritage preservation etc. To this extent we note that section 2.10 sets out opportunities and constraints however, little detail is provided on these and other constraints are omitted. For instance, it is clear that local highways infrastructure provides a constraint to development but this is not identified as a constraint, whereas Plan:MK requires proposals to be acceptable in terms of highways impact and safety. Similarly adjoining and close by residential uses are not considered to be a constraint however, the proposals will need to ensure that there is no harmful impact upon residential amenity (which could be in respect of the relationship of buildings, noise, air

Section 3 Development Framework

Given the lack of technical detail to inform the development framework, we are concerned that figure 3.5 suggests a very intensely developed site.

Land uses

We are strongly of the view that greater guidance should be issued on the land uses acceptable and the sizes of units. The scope for ancillary B1 uses needs to be more carefully defined given that there will be a far greater traffic generation from office uses, presently para 3.6.3 conflicts with the plan policy by stating that "SME Office and light industrial units" will be prevalent in North Brickhill Street, however, the policy wording of the plan does not allow for specific office units rather any offices would only be ancillary to B2 or B8 uses.

Given the conflict within the document and the clearly uncertain nature of proposals, we are of the view that it is premature to conclude that an EIA is not required when the proposals are not actually known (we consider the need for an EIA under the next section) and given the wide ranging nature of B2 and B8 uses.

Movement Framework

In the first instance, we note the significant problems identified by Miles White Consultants with the railway crossing and figure 1.3. We do not repeat our concerns here. However, we set out additional matters that are not addressed in the brief.

Grid

Miles White have also considered a number of other elements of the Brief. They note that Paragraph 3.5.5 of the SPD states that:

"It is the Council's intention to upgrade the whole length of Brickhill Street (south of the railway line) to grid road standard in order to serve growth in the wider area to the south east of Milton Keynes. The developer will be required to upgrade the length of Brickhill Street from the A5 roundabout to the new junction to grid road standard, and make any further improvements that are necessitated by the Transport Assessment. The



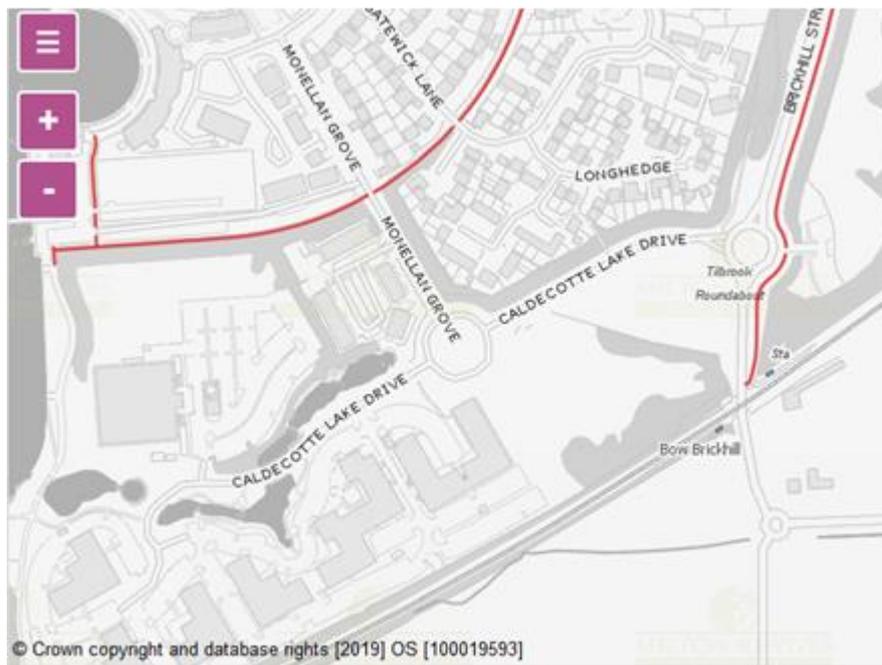
developer will be required to make a financial contribution towards improvements to the strategic highway network, which would include a contribution to the upgrade of the remainder of Brickhill Street to grid road standard.”

However, it is noted that Policy CT 8 in Plan:MK states that new grid roads will be 60m wide for non-residential land uses. If the Council intend to widen the Brickhill Street road corridor (currently a maximum of 15m) to 60m and avoid existing residential properties, it is clear that a large part of the site area will be required to achieve this.

It is also unclear how the upgrading of Brickhill Street to grid road standard would affect the junction with Station Road (currently a mini-roundabout). It is important to note that this junction provides the primary connection between Bow Brickhill, Milton Keynes and the wider road network.

The extension of the grid road network will include the provision of a roadway along Brickhill Street and within the site along a new spine road. The MK Redway network (comprising shared pedestrian and cycle paths) stops at the level crossing on Brickhill Street. A public footpath runs along the northern edge of the site and passes under the railway line to provide access to Caldecotte.

The redway ends on the east side of Brickhill Street – so it will be necessary, for it to join up with a redway on the site (on the west side), for a safe crossing on Brickhill Street will need to be devised otherwise this will not be achievable.



It is clearly misleading not to include reference to policy CT2 of Plan:MK. This policy requires that development proposals will be required to minimise the need to travel, promote opportunities for sustainable transport and support the transition to a low carbon future. In addition section A notes that proposals will not be permitted:



- Integrate into our existing sustainable transport networks and do not have an inappropriate impact on the operation, safety or accessibility to the local or strategic highway networks;
- Mitigate impacts on the local or strategic highway networks, arising from the development itself or the cumulative effects of development, through the provision of, or contributions towards necessary and relevant transport improvements including those secured by legal agreement;
- Ensure that development proposals do not prejudice the future development or design of suitable adjoining sites;
- Do not result in inappropriate traffic generation or compromise highway safety;

Furthermore, section B indicates that development proposals which generate a significant number of heavy goods vehicle movements will be required to demonstrate, by way of a Routing Management Plan, that no severe impacts are caused to the efficient and safe operation of the road network and no material harm is caused to the living conditions of residents or the natural environment.

Miles White consultants, consider that the provision of the bridge proposed in the SPD and the introduction of grid road standards will have a significant adverse effect upon the existing transport infrastructure. Given this it is clear that the policy requirements of policy CT2 are at odds with the content of the development brief.

Design

In respect of design there are a number of other important policies within the Plan including SD1, D1 and D2 (in addition to SD14 and D3 that are listed under 3.6).

Policy SD1 relates to place making principles for new development, including for the subject site. These include:

- development integrates well with the surrounding built and natural environments;
- development relates well to the surrounding area in terms of density, scale and materials, with positive site features, views and vistas incorporated into and used to structure the new development.
- development takes a strategic, integrated and sustainable approach to water resource management.
- development enhances the character of the area within which it is located.
- impacts on the road network have been thoroughly identified through appropriate technical assessments and appropriate mitigation measures and improvements to the road network and public transport have been identified and incorporated into the development or the wider area as required.
- development should result in a net gain in biodiversity through use of strategic, connected green infrastructure, in line with policies NE1-6 and ensure consideration is given to the historic environment in accordance with HE1

Policy D1 Designing a High Quality Place indicates that development proposals will be permitted if they meet the following objectives/principles:

- The development proposals as a whole respond appropriately to the site and surrounding context.
- Continuity of street frontage and locating fronts of buildings to face the street or public space.
- Soft and hard landscaping that continues the verdant and green character of Milton Keynes, enhances the quality of the public realm, is robust to the demands placed upon the public realm, and is appropriate to their context and can be maintained and managed without significant whole life-costs.

Policy D2 Creating a positive character requires that development proposals will be permitted if they meet the following objectives/principles:



- The layout, massing/scale, boundary treatments and landscaping of a development and appearance of buildings exhibit a positive character or sense of place for a development.
- The character of the development is locally inspired where appropriate
- Where there is no positive built form character on the site or surrounding area, new development is designed to create its own distinctive character or sense of place using existing site features, the layout of the development and the appearance of buildings.
- The design allows for visual interest through the careful use of detailing, where this is appropriate to the character of the area.

Clearly relevant plan policies place a great emphasis on design. However, these are not reflected in SPD in its current form. We are strongly of the view that the design section should provide more detail in respect of how the proposals will respond to their surroundings. In particular the development framework plan should contain more guidance on:

- Areas of open space;
- Density of development;
- Landscape buffering; and
- Detailed guidance on building parameters, positioning and land uses.

Heritage

We are concerned that in its current form the SPD is contrary to the requirements of the NPPF.

Para 189. Indicates that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected. Where a site on which development is proposed includes heritage assets with archaeological interest as is established, local planning authorities should require developers to submit an appropriate desk-based assessment and, given the likely significant we are strongly of the view that a field evaluation should be submitted.

Given the potential significance, there is the likelihood that preservation in situ could be required and elements of the site will need to be left undeveloped. Indeed, para 193 indicates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

The importance can only be known when the field evaluation is undertaken as such this should be required to accompany any planning application with appropriate mitigation.

Section 4 Delivery

We note that the Council expect an outline planning application and which we would expect to be appropriate for such a development. However, we have significant concerns about an EIA being screened out at this stage.

The development would fall under Schedule 2 of the EIA regulations and for any such project that exceeds the thresholds, the local planning authority should consider whether it is likely to have significant effects on the environment. In the case of Industrial Estate development projects the threshold is 0.5ha.

NPPG (Paragraph: 018 Reference ID: 4-018-20170728) indicates that in order to aid local planning authorities to determine whether a project is likely to have significant environmental effects, a set of indicative thresholds and criteria have been produced. The table also gives an indication of the types of impact that are most likely to be significant for particular types of development. In this regard the



government considers that projects over 20ha are likely to have a significant impact, in particular in respect of potential increase in **traffic, emissions and noise**.

Given that the site is 57ha (nearly three times the indicative threshold) and in close proximity to residential properties we cannot see how an EIA is not required. Particularly as B2 and B8 uses will have a significant impact upon traffic, emissions and noise (as well as a wide range of other impacts). We consider that this approach is contrary to the relevant Act and the requirement for screening.

Indeed, we note that the Screening Opinion submitted by the landowner provides very limited information in order to reach anything other than this conclusion. Indeed, the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 are clear that any screening request should provide the following detail at section 6 (2) (i):

“a description of the physical characteristics of the development and, where relevant, of demolition works;”

and at 6 (c):

“a description of the aspects of the environment likely to be significantly affected by the development;”

However, very limited information was provided in respect of these to enable the Authority to determine robustly that EIA should not be required despite its scale. The description of development given is very limited and the information that is required was effectively delegated to a subsequent planning application with the applicant considering that mitigation can be used to cover potential impacts. Indeed, the screening letter concludes:

“Although the size of the development exceeds the indicative threshold where EIA is considered to be more likely to be required, the specific nature of the impacts and the locational characteristics of the Site mean that any effects on the environment, once mitigation measures are considered, are unlikely to be significant.”

However, we note that there are significant gaps in the information provided to reach such a conclusion, for instance:

- *Transport* – no information is given on traffic generation, potential impacts or mitigation;
- *Noise & Emissions* – no information provided;
- *Redway* – it is indicated that this will be provided and connect into the existing network despite the problems identified by Miles White Consulting;
- *Landscape* – the location or heights / positions of buildings are not known, no landscape mitigation information is provided and it is also noted that the LVIA is underway;
- *Cumulative impact* – it does not cover the potential significant cumulative effects of development associated with other close by allocations in the Plan most notably the South East Milton Keynes Urban Extension which will also have a significant impact;
- *Health* – it states that the use of the buildings will not give rise to any risk to health and population, however the uses comprise B2 and B8. Indicative thresholds cite 20ha for screening due precisely to the potential impacts of such uses;
- *Ecology* – it noted that numerous studies are required, but indicates that mitigation will be provided; and
- *Archaeology* – it notes that further studies are needed in order assess the importance of the resource particularly if preservation *in situ* is required.

Given this lack of information we would question how it can be robustly concluded that mitigation will be suitably provided when the proposals are not actually known or parameters provided? Given the scale of the scheme and the potential impacts, we are strongly of the view that insufficient information was provided.



The Screening Opinion by the Authority (provided by the Council during September 2018) reflects this lack of information and does not comply with the regulations. Section 5 (5) of the Act indicates that Local Authorities must:

- (a) state the main reasons for their conclusion with reference to the relevant criteria listed in Schedule 3;*
- (b) if it is determined that proposed development is not EIA development, state any features of the proposed development and measures envisaged to avoid, or prevent what might otherwise have been, significant adverse effects on the environment.*

It is clear that no such information is provided by the Local Authority in concluding that no EIA is required. No reasons were given and no list of measures to be taken to avoid or to prevent significant adverse impacts were identified despite the screening letter relying heavily on mitigation.

Moreover, we would have thought that the information listed at 4.3.4 to accompany an application is a minimum and should also include:

- A Landscape and Visual Impacts Assessment;
- A noise assessment;
- An Air Quality assessment;
- Archaeological Investigations report; and
- Detailed parameters for building design and floorspace.

In respect of noise and air quality, these are major omissions from the list given that they are the significant impacts that NPPG expects an industrial estate development project that is over 20ha to have. We would have thought that a development of the scale at South Caldecotte will have significant impacts in this regard that are well in excess of the level envisaged by Government advice at 20ha.

Indeed, we are strongly of the view that it is a major oversight of the document not to set development parameters that can be assessed properly and through an EIA. Indeed, absent this safeguard Reserved Matters could go beyond the amount of development permitted at outline stage but could each trigger EIA themselves as part of a multi-stage consent.

Conclusion

Our clients, Bow Brickhill Parish Council are deeply concerned over the lack of information provided within the SPD in its current form. They are equally concerned that an EIA Screening Opinion was provided that does not comply with the regulations and does not give any comfort that the impacts of such a scale of development can be adequately mitigated within the existing infrastructure and environment.

Should you wish to discuss any of the above, please do not hesitate to contact me.

Yours sincerely,

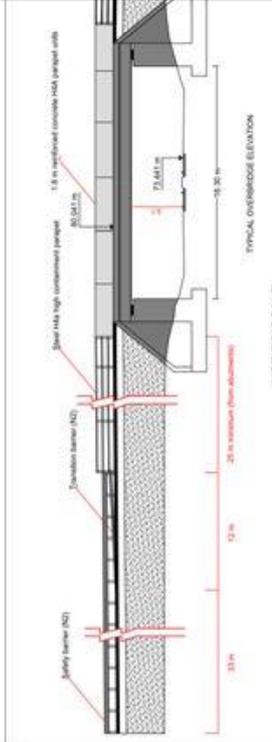
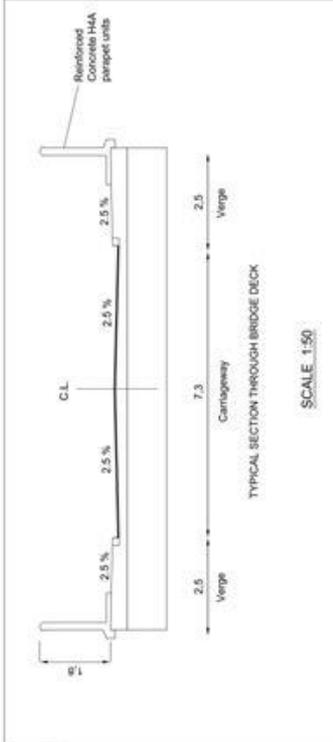
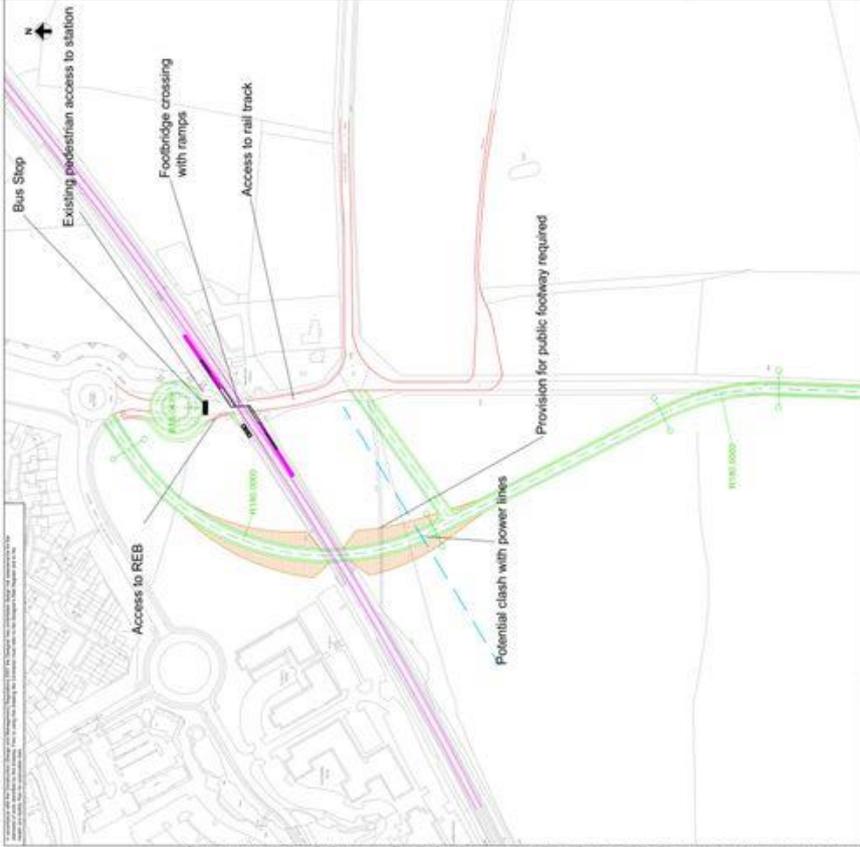


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Appendix 1: Network Rail proposals





N.B: Arrangement mirrored about centreline of overbridge.
 N.B: Indicative Vehicle Safety Barrier. Bespoke barrier to be designed for every crossing following the "Road Restraint Risk Assessment" (RRRAP) defined in TD 19/06 in DMRB.

- NOTES:
- 1-Bridge deck is 6.60 m above rail level with assumed headroom of 5.1 m and deck thickness of 1.5 m
 - 2-Embankment slope is assumed to be 1:2 (vertical:horizontal)
 - 3-Highway approach slope to bridge is considered to be 6%
 - 4-The design speed for horizontal alignments is assumed to be 70 kph (40mph speed limit) after assessment of road signs and general features.
 - 5-Ground assumed to be flat in terms of calculation of earthworks.
 - 6-Road access to be provided to rail track for maintenance/inspection reasons



Issued for Information	
Issue	1
Date	20/11/2018
By	DRP/22/002/02
For	DRP/22/002/02
Project	25113769A
Sheet	01

Bow Brickhill Level Crossing Option 2

East West Rail



